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# LAW OF THE SEA: AGREEMENT FOR THE IMPLEMENTATION OF TH PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW O THE SEA OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Report of the Secretary-General

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## I. INTRODUCTION

1. At its fiftieth session, in its resolution 50/24 of 5 December 1995, th General Assembly expressed its appreciation to the United Nations Conference o Straddling Fish Stocks and Highly Migratory Fish Stocks for discharging its mandate under Assembly resolution 47/192 of 22 December 1992 with the adoption of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fis Stocks (hereafter referred to as "the 1995 Agreement"), and emphasized the importance of its early entry into force and effective implementation. 1/

2. The General Assembly also called upon all States and other entities entitled to do so pursuant to the relevant provisions of the 1995 Agreement to sign and ratify or accede to it and to consider applying it provisionally. It further requested the Secretary-General to report to it at its fifty-first session and biennially thereafter on developments relating to the conservatio and management of straddling fish stocks and highly migratory fish stocks, taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations (FAO), and other appropriate organs, organizations and programmes of th United Nations system, regional and subregional organizations and arrangement for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations. 2/

3. Accordingly, the Secretary-General sent a note verbale to all members of the international community, drawing their attention to resolution 50/24. Letters were also addressed to relevant intergovernmental organizations, and organizations and bodies of the United Nations system, as well as regional and subregional fisheries organizations and arrangements and relevant non-governmental organizations. In response, the Secretary-General has receive a number of submissions and comments. He wishes to express his appreciation for all the contributions, and in particular to FAO for its detailed report.

4. The present report, which takes into account those contributions, is submitted to the General Assembly in response to the request contained in resolution 50/24.

## II. INFORMATION PROVIDED BY STATES

5. In its response to the Secretary-General dated 10 June 1996, Colombia informed him that, as a party to the 1992 La Jolla Agreement, 3/ it actively participated in the International Review Panel through which specific studies on straddling fish stocks and highly migratory fish stocks were being carried out. In an additional communication dated 9 July 1996, it stated that the Colombian Ministry of Agriculture and the National Institute for Fishing and Aquaculture (INPA) continued to participate in the meetings of the Interamerican Committee on Tropical Tuna, the mandate of which encompassed tuna fisheries and the conservation of dolphins in the eastern Pacific. INPA had enacted mandatory

rules for the sound exploitation of tuna fisheries and the conservation of dolphin, applicable to fishing vessels working for Colombian companies, and had addressed the issue at several regional meetings of the Permanent Commission of the Southern Pacific and the Fishery Commission of the Central Western Atlantic.

6. In its submission of 10 June 1996 to the Secretary-General, Qatar indicated that data and information on the conservation and management of straddling fish stocks and highly migratory fish stocks were being exchanged on a cooperative basis through its participation in the Technical Committee on Fisheries of the Gulf Cooperation Council and in the Committee for the Development and Management of the Fisheries Resources of the Gulf of the Indian Ocean Fishery Commission of FAO.

7. In its reply to the Secretary-General dated 18 June 1996, Maldives stated that it would sign the 1995 Agreement in the very near future.

8. In its response to the Secretary-General of 21 June 1996, Saudi Arabia indicated that it had been cooperating with neighbouring States, particularly States members of the Gulf Cooperation Council. One of the most salient results of such cooperation had been the prohibition of the use of trawl nets for demersal fish during mating seasons in the Arabian Gulf and for a three-month period each year. Agreement was also reached on the establishment of a closed season for shrimp fishing in the Arabian Gulf for a period of not less than six months between January and September each year, as well as on coordination between member States sharing fish stocks concerning fixed dates for the beginning of fishing seasons and a global survey of the waters of the Arabian Gulf.

9. In its reply of 28 June 1996 to the Secretary-General, Italy informed him that, with its signature of the 1995 Agreement on 26 June 1996, the procedure for ratification had already been initiated.

10. In its response to the Secretary-General dated 28 June 1996, Canada submitted the following information regarding developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks:

"(a) Straddling stocks

"Straddling stocks on the Atlantic coast are managed by the Northwest Atlantic Fisheries Organization (NAFO) in NAFO divisions 3LMNO. Canadian regulations and measures apply equally to Canadian vessels fishing inside and outside Canada's 200-mile limit. Management measures for these straddling stocks are put in place by NAFO. Canada complies with all NAFO rules and in several cases Canada's management measures are even more stringent.

"For instance, the NAFO mesh size for trawl nets is 130 millimetres. For Canadian vessels the minimum size is 145 mm for some of these stocks. Under NAFO, if the quantity of undersize fish in any one haul is 10 per cent by number, the vessel must move at least 5 nautical miles and all undersized fish must be discarded. For Canadian vessels, discarding is

not permitted and, should the number of undersized fish in the catch exceed 15 per cent by number, the fishery is closed for the entire fleet for at least 10 days.

"(b) Highly migratory stocks

"Highly migratory stocks on Canada's east coast are large pelagics, managed by the International Commission on the Conservation of Atlantic Tunas (ICCAT). Each year, Canada implements all ICCAT measures for bluefin, albacore, yellowfin, bigeye tuna and swordfish.

"Sharks, although migratory, are not yet being managed multilaterally in the Atlantic. However, Canada has put in place a number of management measures to limit fishing effort on these species and to assist in gaining further scientific information."

11. In its submission of 2 July 1996, Norway informed the Secretary-General that the Norwegian Parliament had on 11 June 1996 unanimously given its consent to the ratification of the 1995 Agreement; the Norwegian Government, therefore, intended to ratify it shortly. Norway also indicated that a four-party Agreement on the 1996 Norwegian spring spawning herring stocks concluded among the coastal States, i.e., Norway, the Russian Federation, Iceland and the Faroe Islands, had been signed and had entered into force on 6 May 1996. The Agreement, which limited the fishery both in the fishery zones of the four parties and in the high seas areas of the north-east Atlantic, represented a major step forward in a policy designed to extend sustainable management to the herring stock throughout its range of distribution. In addition, Norway had in March 1996 become a party to a North-east Atlantic Fisheries Commission (NEAFC) Agreement relating to the fishery for the straddling stocks of redfish in the Irminger Sea in the north-west Atlantic. It had also expressed grave concern over the unregulated north-east Arctic cod fisheries in the high seas areas of the Barents Sea and indicated its intention to renew efforts towards finding a viable solution to the problem.

12. In its reply to the Secretary-General dated 3 July 1996, Finland indicated that, as a member of the European Union (EU), it had accepted the decision of the EU Council to sign the 1995 Agreement, which had been held up by the issue of jurisdiction between the European Community and member countries. A compromise had however been reached on the matter at the EU Fisheries Council on 10 June 1996. 4/

13. In its response of 10 July 1996 to the Secretary-General, Morocco reported that it had recently established a national institute for research on living marine resources (Institut National de Recherche Halieutique) which would deal with assessment of straddling fish stocks and highly migratory fish stocks at the regional level as well as through bilateral and multilateral scientific cooperation.

14. In its submission of 10 July 1996 to the Secretary-General, Spain referred to two important developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks. The first concerned the opening for signature of the 1995 Agreement, which had been signed by the

European Community along with some States members. The remaining members, including Spain, would sign it shortly. The second concerned the management of Atlantic redfish (Sebastes mentella) by NEAFC. Total allowable catch (TAC) for these straddling fish stocks had been established; quotas had been allocated to contracting parties; and quota reserves had been determined for future NEAFC members. The Agreement was an example of cooperation between coastal States and States fishing on the high seas, and the measures taken by NEAFC would apply within and beyond zones under national jurisdiction on the basis of the best available scientific evidence.

15. In its reply to the Secretary-General dated 22 July 1996, Kuwait informed him that, although very little had been done so far at the subregional level to discuss measures that needed to be adopted for the management of particular highly migratory fish stocks or those in shared zones, steps had been taken towards protecting those stocks. States members of the Gulf Cooperation Council had undertaken a joint research project to study shrimp nets in shared zones, with Kuwait taking a leading role in the work, which was considered to be among the most innovative in its field. Another project was under way to prevent the migration of seerfish, a species of economic value. Every Gulf State had agreed to gather all available data on the species, including its biological characteristics, length and weight and other useful information, with Bahrain playing the leading role in the project. In addition, a group of Gulf States was coordinating efforts to survey particular aspects of fishing grounds through the compilation of statistical data on species of fish in order to establish a statistical database, and through the assessment of certain aspects of environmental damage to fish stocks, particularly where stocks were becoming depleted, in order to counter the contributory source of pollution.

16. Finally, Kuwait indicated that, at the regional level, it had followed the general principles for the conservation of fish stocks laid down in its national legislation, which guaranteed that those who infringed those principles would not profit from their illegal activities. Its national scientific institutions also played a major role in conducting surveys on fish stocks, including collection of data on fishing efforts according to fishing method, the biological study of target and non-target species, research on environmental factors affecting the growth and survival of fish stocks, and stock enhancement or restoration in zones under its national jurisdiction.

17. In its response to the Secretary-General dated 25 July 1996, Tunisia indicated that its signature of the 1995 Agreement would probably take place before the end of 1996, following assessment of the results of the Second Diplomatic Conference on the Management of Living Marine Resources in the Mediterranean, to be held from 27 to 29 November 1996.

18. In its submission to the Secretary-General dated 29 July 1996, South Africa informed him that it was in the process of developing a new and integrated fisheries policy, to be completed by the end of 1996. It also indicated that it was committed to enhancing global fisheries resources by means of responsible fishing practices in cooperation with its regional partners in the Southern African Development Community (SADC) and reaffirmed its support for the cooperative international and regional marine resource management agreements

aimed at protecting and conserving the marine environment, as embodied in the FAO Code of Conduct for Responsible Fisheries and the 1995 Agreement.

19. In its reply to the Secretary-General dated 7 August 1996, the United States of America stated that it considered the 1995 Agreement to be a major achievement in promoting better stewardship of living marine resources and was committed to bringing it into force as quickly as possible. In meeting that commitment the United States, in September 1995, had embarked on a campaign to promote, through diplomatic channels, the signing and ratification of the Agreement. Since then, the United States Department of State had presented démarches to more than 130 States Members of the United Nations. It had also made appeals to non-member States to adhere to the principles of the Agreement. The United States was currently a party to a number of regional and subregional fishery management organizations and arrangements to which the Agreement applied. The United States believed that the Agreement would strengthen the ability of regional organizations and arrangements to carry out their conservation and management responsibilities. It also believed that those organizations and arrangements that managed straddling fish stocks and highly migratory fish stocks should act immediately, prior to the entry into force of the Agreement, to implement its key provisions. Those key provisions included the precautionary approach to fisheries management, transparency, new members, compliance and enforcement, and non-member fishing activities. The United States would work diligently in the coming months and years to achieve this goal and was also prepared to work with other members of the international community to establish, in accordance with the provisions of the Agreement, organizations and arrangements in those regions where none currently existed.

20. The United States added that President Clinton had transmitted the Agreement to the Senate on 20 February 1996 for its advice and consent to ratification; on 28 June 1996, the Senate had provided its advice and consent. 5/

## III. INFORMATION PROVIDED BY INTERNATIONAL ORGANIZATIONS

### A. Specialized agencies of the United Nations

21. In its response to the Secretary-General dated 19 July 1996, FAO submitted the following report:

> "Conservation and management of fisheries resources worldwide is generally in a poor state. There have been no major improvements in the situation since FAO reported in the early 1990s that approximately 70 per cent of the world's marine capture fisheries resources for which data were available were fully exploited, over-exploited or in a state of recovery. A more recent FAO study using catch statistics available since 1995 for the 200 main marine fisheries resources has come to similar conclusions.
>
> "For straddling fish stocks and highly migratory fish stocks, many commercially important and valuable stocks have been subject to heavy and sparsely regulated fishing effort, and some stocks continue to be overfished.

"The 1993-1995 United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, which led to the conclusion of the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (United Nations Agreement) sought to address this matter in a substantive and comprehensive manner, within the framework of the 1982 United Nations Convention on the Law of the Sea (1982 Convention). Moreover, the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Compliance Agreement) and the 1995 Code of Conduct for Responsible Fisheries (Code of Conduct) also substantively address the need for, and seek to facilitate, the rational and long-term sustainable utilization of high seas fisheries resources.

"Status of stocks and conservation and management

"The status of these stocks, summarized on an ocean-by-ocean basis, together with a brief description of the subregional and regional management organizations and arrangements that exist to facilitate conservation and management of these stocks, is provided below.

"Atlantic Ocean

"(i) Highly migratory fish stocks

"Many stocks of the principal market species appear to be heavily to fully exploited and some stocks are overfished or depleted.

"Albacore and bigeye tuna. The stock of albacore in the North Atlantic appears to be exploited at about the maximum sustainable yield (MSY) level. In the South Atlantic, since the mid-1980s exploitation has exceeded the MSY level. Bigeye tuna are fished substantially above the MSY level.

"Bluefin tuna. In the eastern Atlantic and the Mediterranean Sea, reductions in fishing effort, especially that directed at small fish, could increase the yield in the long term. In the western Atlantic, the stock is being fished substantially below the MSY level. Southern bluefin tuna are over-exploited.

"Skipjack tuna. In the Atlantic, skipjack are likely to be moderately exploited.

"Yellowfin tuna. In the eastern Atlantic, the stock of yellowfin tuna is exploited at about the MSY level.

"Billfish and swordfish. Blue and white marlin in the Atlantic could be over-exploited. There is some concern about the status of sailfish in the Western Atlantic and even greater concern about the status of swordfish in the Atlantic.

"(ii) Straddling fish stocks

"North-west Atlantic Ocean. Straddling species occurring in this area include the Grand Bank cod, American plaice, redfish, witch flounder, Atlantic and Greenland halibut, yellowtail flounder, grenadiers, mackerel and neritic squids. It appears that all straddling stocks of groundfish in this zone are fished at or beyond the MSY level and that the groundfish stocks are now generally in the worst condition they have ever been in.

"North-east Atlantic Ocean. Blue whiting is one of the main straddling resources. It was heavily overfished in the 1980s but since 1986 fishing mortality has decreased and is now close to natural mortality. The stock is increasing and is considered within safe biological limits. The oceanic redfish reached its peak landings in 1986 (105,000 tonnes) and has since dropped substantially to just over 20,000 tonnes in recent years. The reason for the decrease has not been ascertained and there is no scientific assessment of the present status of the stock. Catches of cod, haddock, Greenland halibut and redfish in the Barents Sea are believed by scientists to be insignificant. Pelagic straddling stocks of the Norwegian spring spawning herring are recovering from a historical collapse and are increasing progressively owing to good replenishment.

"Mediterranean Sea. The Mediterranean coastal countries have not extended their exclusive economic zones to 200 miles; most still have a 12-mile limit. For this reason most of the waters of the Mediterranean remain high seas. Hake and deep sea shrimps are the main straddling stocks in the Gulf of Lions and the Gulf of Gabes. Small pelagics such as sardines and horse mackerel most probably straddle everywhere beyond the 12-mile limit.

"East-central Atlantic Ocean. The oceanic horse mackerel is the only known straddling stock in this region and nothing is known of its potential and status.

"West-central Atlantic Ocean. Flying fish, dolphins, Atlantic sailfish, king mackerel and oceanic sharks are the main straddling fish stocks in this region. With a number of distant-water fishing nations fishing for these species and tunas in the area, the problem of overall management and resource allocation remains. The status of straddling stocks has not yet been investigated.

"South-west Atlantic Ocean. Many important demersal fish stocks are found in this area, including short-fin and common squids, both of which are considered to be fully to over-exploited. The stocks are mostly exploited by distant-water fishing nations. The hake stocks are fully exploited. Both the southern blue whiting and the grenadier are considered to be under- to moderately exploited. Other demersal fish stocks are the pink cusk eel, the Patagonian toothfish, the tadpole mora, the Antarctic cod, rockcods, and common squids, all of which are considered to be moderately exploited.

"South-east Atlantic Ocean. Straddling stocks in this area include the horse mackerel, the pomfret and myctophids. Most catches are carried out within exclusive economic zones. No straddling stock conflict is reported.

"(iii) Subregional and regional organizations and arrangements

"Tuna and tuna-like species are covered by the International Commission for the Conservation of Atlantic Tunas (ICCAT). The Commission has the mandate to manage these stocks in all waters of the Atlantic Ocean and its adjacent seas. It has adopted a number of regulatory measures concerning the size limits for yellowfin, bigeye, bluefin and swordfish.

"In the Mediterranean Sea the General Fisheries Council for the Mediterranean (GFCM) is responsible for the conservation and management of all fisheries resources in the area. The Council is an FAO funded and administered body whose structure and functions in relation to highly migratory species and straddling stocks need to be modified in order to implement the provisions of the United Nations Agreement.

"The regional fishery organizations with regulatory powers to deal with the conservation and management of straddling fish stocks in the Atlantic Ocean and its adjacent seas are the Northwest Atlantic Fisheries Organization (NAFO), the Northeast Atlantic Fisheries Commission (NEAFC), the International Baltic Sea Fishery Commission (IBSFC) and GFCM.

"For straddling stocks, NAFO has been facing a crisis situation in recent years with the recommendations of its Scientific Commission being jeopardized by the uncontrolled fishing activities of both members and non-members within its regulatory area. Delays in catch reports by members have also resulted in assessments with incomplete data.

"The International Council for the Exploration of the Sea (ICES) is a purely scientific body providing scientific advice to a number of organizations and countries in the north-east Atlantic region.

"Other regional bodies, including the Fishery Committee for the Eastern Central Atlantic (CECAF) and the Western Central Atlantic Fishery Commission (WECAFC), are advisory bodies funded and administered by FAO.

"Two other regional bodies, the International Commission for the Southeast Atlantic and the Regional Fisheries Advisory Commission for the Southwest Atlantic, have been inactive for some time. There is an urgent need for some form of fishery management arrangements for these two areas.

"There are also a number of subregional fisheries organizations with some regulatory powers, e.g., the Subregional Commission on Fisheries, the Regional Fisheries Committee for the Gulf of Guinea, and the Regional Convention on Fisheries Cooperation among African States Bordering the Atlantic Ocean. All three operate in the east-central Atlantic.

"Indian Ocean

"(i) Highly migratory fish stocks

"Albacore and bigeye tuna. In the Indian Ocean, the stock of albacore may be heavily exploited, but its assessment is highly uncertain. With the termination of drift-net fishing, the albacore stocks should be under less pressure. Bigeye are heavily fished, but the stock may be in a healthy condition, though this is uncertain.

"Bluefin tuna. Southern bluefin are over-exploited.

"Skipjack tuna. The stock of skipjack looks to be in a healthy condition, regardless of recent declines of average sizes in its catch off the Maldives, which are a matter of concern.

"Yellowfin tuna. In the Indian Ocean, yellowfin tuna do not appear to be threatened by over-exploitation, if there is only one stock, despite the tremendous increase in catch during the last 10 years. If there is a separate stock in the western Indian Ocean, the intensity of fishing there may be moderate to above the MSY level. However, more research is needed before the status of the stocks can be precisely determined.

"Billfish and swordfish. Fishery statistics for billfish and swordfish in the Indian Ocean are incomplete and even basic biological information is limited. Consequently, the knowledge of the status of the stocks is generally poor. Swordfish, however, seem to be under-exploited.

"(ii) Straddling fish stocks

"There is no information available to FAO on the status of straddling fish stocks in the Indian Ocean.

"(iii) Subregional and regional organizations and arrangements

"Two fishery bodies have recently been established to deal with the conservation and management of tunas in the Indian Ocean. The Convention on the Western Indian Ocean Tuna Organization (WIOTO) entered into force in 1994 but is not yet operational. The Agreement for the establishment of the Indian Ocean Tuna Commission (IOTC) entered into force in March 1996, and the first session of the Commission is to be held in Rome in September 1996. Both bodies have regulatory power although certain amendments to their establishing agreements may be necessary to enable them to implement the provisions of the 1995 United Nations Agreement. The Indian Ocean Fishery Commission (IOFC), funded and administered by FAO, has only advisory functions and is the only region-wide body in the region.

"Pacific Ocean

"(i) Highly migratory fish stocks

"Albacore and bigeye tunas. In the North Pacific, the albacore stock seems to be fully exploited but is in a stable condition. In the South Pacific, fishing effort has been reduced after the close of the large-scale pelagic drift-net fishery, in 1991, but even at the present intensity of fishing, there is a risk of overfishing. The stock of bigeye in the Pacific is exploited at a level close to MSY. The potential impact of surface catches of small bigeye on bigeye longline catches is a concern.

"Bluefin tuna. The status of northern bluefin tuna in the North Pacific is uncertain but may be overfished. The southern bluefin tuna is over-exploited.

"Skipjack tuna. Catches of skipjack can probably be further increased, especially in the eastern, central and western Pacific.

"Yellowfin tuna. In the western and central Pacific, recent analyses suggest that a significant increase of the present catch would be sustainable. In the eastern Pacific the stock appears to be slightly under-exploited.

"Billfish and swordfish. Fishery statistics for billfish and swordfish stocks in the Pacific are incomplete and even basic biological information is limited.

"(ii) Straddling fish stocks

"North-west Pacific Ocean. The Alaska pollack is widely distributed in the North Pacific (Bering Sea, Sea of Okhotsk). Total catches increased steadily in the North Pacific from 300,000 tonnes in the 1950s to 6.7 million tonnes in the late 1980s. About 25 per cent to 30 per cent of landings from the Bering Sea in the late 1980s came from the Donut Hole. Catches in the Donut Hole have decreased from 1 million tonnes in the late 1980s to 22,000 tonnes in 1992. The management of this resource in the international waters of the Bering Sea (Donut Hole and Peanut Hole) is a source of controversy. In August 1992, the United States, Japan, Poland, the Republic of Korea and China agreed to a harvest moratorium after it became apparent that most of the biomass had disappeared. The flying squid is another straddling stock considered to have been fully fished since 1987. Other straddling fish stocks on the North Pacific shelf and slope are the cephalopods, the Pacific Ocean perch (already overfished in the 1960s), the pelagic armourhead and the alfonsin.

"North-east Pacific Ocean. The condition of the North-east Pacific stock of the Alaska pollack is considered good. The jack mackerel is another straddling stock with a spawning biomass estimated at least 1.5 million tonnes but its potential is not known with precision.

"South-west Pacific Ocean. Direct fisheries for the orange roughy have developed in Australia and New Zealand. Japan, the Russian Federation, the Republic of Korea and Norway also fish this stock. The species may reach 100 years of age and matures at an age of 20 to 25 years. Thus maximum sustainable harvest rates are estimated at 1 to 5 per cent of the virgin biomass. Present harvest rates are higher than this in most areas, leading to unsustainable fisheries. Other straddling stocks include oceanic squids and sharks, flying fish and dolphin.

"South-east Pacific Ocean. The jumbo flying squid is found from California to the southern tip of Latin America. The stock is largely under-exploited. The Chilean jack mackerel has in the last two decades provided one of the largest increases in world fish catch, from about 110,000 to 150,000 tonnes in 1970-1973 to 4.3 million tonnes in 1994. There are some indications that the stock may have been heavily exploited (at least locally) but the data did not cover the whole resource. Thus the status of the full stock of the South Pacific is not known.

"(iii) Subregional and regional organizations and arrangements

"Two fishery conservation and management organizations with regulatory powers deal with the tunas in the Pacific Ocean: the Inter-American Tropical Tuna Commission (I-ATTC) and the South Pacific Forum Fisheries Agency (FFA).

"FFA covers the South Pacific (central and west) and has the mandate to harmonize the fishery management policies of its members. The Agency is not a conservation management body but controls foreign tuna fishing in the exclusive economic zones of its members through a licensing system and cooperative monitoring, control and surveillance.

"The Eastern Pacific Ocean Tuna Fishing Agreement and its Protocol, signed by the United States of America, Costa Rica and Panama on 15 March 1983, has not yet entered into force. Similarly, the Agreement creating the Eastern Pacific Tuna Fishing Organization signed by Ecuador, El Salvador, Mexico, Nicaragua and Peru on 21 July 1989, has not yet entered into force.

"Other regional fishery bodies in the region with some regulatory powers to deal with the straddling stocks are the South Pacific Permanent Commission (CPPS) and the Asia-Pacific Fishery Commission (APFIC). The latter is an FAO funded and administered body with limited management power. It has a Committee on Marine Fisheries whose activities are concentrated on the South China Sea.

"Southern Ocean

"There are no straddling stocks in the Southern Ocean. The area is covered by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)."

B. Organs, organizations and programmes of the United Nations system

22. In its response of 20 June 1996 to the Secretary-General, the Economic Commission for Latin America and the Caribbean (ECLAC) provided the following information:

"1. Countries in the Latin America and the Caribbean region are undertaking analysis of the 1995 Agreement at different levels and through various approaches.

"2. A strong initiative to study the implications of the Agreement is being promoted by the private fishing industry.

"3. Some concern has been perceived in several countries as regards article 7 on "Compatibility of conservation and management measures", since it is felt that this provision could, in the end, undermine the focus on the high seas, introducing some disturbance to the proper implementation of Part V of the United Nations Convention on the Law of the Sea vis-a-vis sovereign rights of coastal States over the living resources of their exclusive economic zone.

"4. Similarly, there is a common feeling that an effort to emphasize the prevalence of the Convention's provisions will be needed in the future, especially in relation to its article 297 (3) on settlement of disputes referring to fisheries in the exclusive economic zone, and in view of the absence of consensus to have included in article 31 of the [1995] Agreement the possibility of application of provisional measures based on coastal State fishing regulations.

"5. Many countries in the region are also trying to consider the Agreement in the context of the discussion on environment and trade, since the role played by fisheries in the world economy will certainly necessitate consistency with the negotiations in the framework of the World Trade Organization (WTO), and the Uruguay Round. With regard to article 23 of the Agreement on "Measures taken by a port State" the controversies held by some Latin American countries and the European Union in the process of adopting free trade agreements are an indication of the need for further developments on the subject.

"6. A different type of assistance is required by countries of the region concerning implementation of article 24 of the Agreement on "Recognition of the special requirements of developing States", particularly in connection with social and environmental impacts.

"7. In the discussion on the formulation and application of national and regional strategies for implementation of the Convention on Biological Diversity in the marine environment, particular attention is being given to subparagraph (g) of article 5 of the Agreement on the protection of biodiversity in the marine environment.

"8. The need to develop further guidelines on the incorporation of the precautionary approach to the long-term sustainability of fisheries and on the environmental and economic factors affecting MSY fishery evaluation models are the issues on which regional discussions will be focused in the near future."

C. Other intergovernmental organizations

23. In its response to the Secretary-General dated 28 June 1996, the Commonwealth made the following submission:

"The Commonwealth's members have a vital interest in the conservation and sustainable management of fisheries and the control of harmful fishing practices. This issue was the main item on the agenda of the third meeting of the Commonwealth Consultative Group on Environment, which met in the wings of the high-level segment of the Commission on Sustainable Development on 30 April in New York. The Group agreed, inter alia, that it was vital for all countries to ratify and implement the 1995 United Nations Agreement on the conservation and management of straddling fish stocks and highly migratory stocks, in conjunction with the relevant provisions of the United Nations Convention on the Law of the Sea, with a sense of urgency. The Group made several suggestions for strengthening Commonwealth assistance and cooperation on fisheries. These included:

- The gathering, sharing and dissemination of scientific information on fisheries and other marine resources;

- Improving capacities for effective coastal zone management (including the use of environmental impact assessments) through technical assistance and training;

- Sharing information and expertise on effective methods for the sustainable management of fisheries and the reduction of marine pollution from land-based sources;

- Policy development, including the use of economic incentives to promote the sustainable management of fisheries;

- Promoting technical cooperation and exchange of information on fisheries management in small island developing States through mechanisms such as the Small Island Developing States Information Network (SIDSNET) and the Small Island Developing States Technical Assistance Programme (SIDSTAP);

- Improving capacities for surveillance and monitoring of exclusive economic zones, especially in small island developing States, and exchange of information on the activities of distant water fishing fleets judged to be harmful to fisheries;

- Mapping coastal zone resources and assessing fish stocks, particularly migratory species (with an emphasis on large pelagics);

- Assistance for the upgrading and mechanization of fishing fleets and the development of fish processing industries, especially in small island developing States;

- Legal assistance for the delimitation of maritime boundaries and the negotiation of agreements on fisheries;

- Environmental education to increase awareness of the importance of conserving and harvesting fisheries in a sustainable manner."

## D. Regional and subregional fisheries organizations and arrangements

24. It has been reported that the Fishery Committee for the Eastern Central Atlantic (CECAF), at its thirteenth session (Dakar, 18-20 December 1995), had discussions on the relevance of the 1995 Agreement to eastern Atlantic fisheries in the light of the fact that few straddling stocks occurred in the region and highly migratory species were already covered by the International Commission for the Conservation of Atlantic Tuna (ICCAT), with which the Committee had decided to strengthen cooperation. It was, however, recognized that many principles contained in the Agreement, such as the precautionary approach, the compatibility of conservation measures taken by the countries across the whole range of species distribution, the need to strengthen subregional and regional mechanisms and arrangements and to set up transparent operating procedures, cooperation in enforcement, and peaceful settlement of disputes, were applicable to all fisheries, with particular reference to those based on shared stocks, which occurred throughout the CECAF region. The Committee therefore urged all its members to consider becoming party to the 1995 Agreement; to ensure that the provisions regarding highly migratory species were implemented by ICCAT; and to implement the relevant provisions for the management of shared resources. 6/

25. In its submission to the Secretary-General dated 16 April 1996, the Inter-American Tropical Tuna Commission (I-ATTC) informed him that certain exploited species, such as yellowfin tuna, were managed on a single stock basis within I-ATTC's area of competence, while others, such as northern bluefin tuna and swordfish, had stocks which ranged outside the eastern Pacific. It further indicated that I-ATTC, which is the regional fisheries management organization concerned with fisheries for tuna and other species taken by tuna fishing vessels in the eastern Pacific Ocean, cooperated with other regional management organizations and arrangements, and in respect of reporting on fisheries for species whose encompassed areas lay outside its area of competence, it had endeavoured to coordinate and eliminate duplication with States and other fisheries management organizations and arrangements.

26. In its reply of 24 April 1996 to the Secretary-General, ICCAT indicated that the Commission, at its 14th regular meeting (Madrid, 10-17 November 1995), had discussions on the United Nations Conference on Straddling Fish Stocks and

Highly Migratory Fish Stocks, including its relevance to the work of ICCAT in the conservation and management of the highly migratory species under its mandate. 7/ A proposal was made by one delegation regarding the implementation by ICCAT of the 1995 Agreement, including steps that might be taken to create a structure to ensure that ICCAT activities were aligned with the Agreement. 8/ Although several delegations stated that the proposal was premature, 9/ it was agreed that member countries would submit their views to the ICCAT secretariat during the course of the year and that the matter would be included in the agenda of the next Commission meeting, which could be preceded by informal discussions. 10/

27. In its response of 20 May 1996 to the Secretary-General, the South Pacific Commission (SPC) stated that, largely in response to the 1995 Agreement, Pacific Island nations had, over the past year, been considering ways in which they could better meet their obligations as coastal States under the United Nations Convention on the Law of the Sea and improve their cooperation with fishing nations in the conservation and management of tuna in the western and central Pacific. The SPC Oceanic Fisheries Programme (OFP), as the principal tuna research programme in the region, had played an important role in those discussions. While discussions were ongoing, Pacific Island nations had consistently expressed the view that the essential scientific support for any future international conservation and management arrangement for tuna and related species in the western and central Pacific region should be provided by OFP, supported by the research agencies of participating countries in the arrangement. It was expected that substantial progress towards establishing a scientific cooperation agreement among coastal States and fishing nations of the region would be made at a Technical Consultation on Arrangements for Data Collection and Exchange, Tuna Research and Stock Assessment, to be held at Commission headquarters in Nouméa, New Caledonia, from 15 to 19 July 1996.

28. In its reply to the Secretary-General dated 11 June 1996, the North-East Atlantic Fisheries Commission (NEAFC) reported that, at an extraordinary meeting in March 1996, the Commission had adopted by qualified majority a recommendation for the management within the NEAFC Convention Area of an entire stock of oceanic redfish, both inside and beyond waters under the national jurisdiction of coastal States, whereby a total allowable catch was established and allocated to contracting parties and an allocation was also set aside for non-contracting parties known to be fishing in the Convention Area. The catch reporting scheme introduced for 1995 had been continued, and the ongoing cooperation of non-contracting parties was sought in supplying catch data. One contracting party (Russian Federation) had since formally objected to the recommendation. NEAFC had also attempted to introduce management measures in respect of another straddling stock within the NEAFC Convention Area, the Norwegian spring spawning (Atlanto-Scandian) herring, but contracting parties had thus far been unable to reach agreement on measures within the Commission, other than a catch reporting system. Discussions in respect of those two stocks had tended to act as a focus for considering the role of NEAFC as a regional management organization in the light of the additional responsibilities placed on such bodies by the 1995 Agreement. It was the view of a number of contracting parties that the text of the NEAFC Convention should be reviewed to make any necessary clarifications and adaptations of the Convention as appropriate in the light of the 1995 Agreement. The capacity of the Commission to advance that work would depend to some extent

on decisions taken by its contracting parties, not least with regard to their ratification of the Agreement. It was likely that there would be further discussion of how NEAFC should be responding to the Agreement and advancing this work at the annual meeting, to be held from 20 to 22 November 1996.

29. In its response of 18 June 1996 to the Secretary-General, the Northwest Atlantic Fisheries Organization (NAFO) provided the following information:

"6. Challenges to conservation in the NAFO Regulatory Area

"NAFO has faced many challenges to the conservation and optimum utilization of the fishery resources under its management. One particular concern has been the undermining of NAFO management decisions by unregulated fisheries of non-contracting parties, including 'flags-of-convenience'. Most of the NAFO-managed stocks have been severely depleted and continue to be under moratoriums.

"To address the problem of non-contracting party fishing, the General Council adopted several resolutions calling for compliance with the NAFO management framework and established a Standing Committee on Fishing Activities by non-Contracting Parties in the Regulatory Area in September 1990. The President of NAFO has sent letters annually to all non-contracting parties whose vessels had been fishing in the NAFO Regulatory Area during 1990-1995.

"All flag-of-convenience vessels left the Nose and Tail of the Grand Bank in mid-1994; a small number moved to the Flemish Cap (NAFO Division 3M) in the NAFO Regulatory Area. While vessels registered in Panama, the Cayman Islands, Saint Vincent and the Grenadines, and Venezuela left the NAFO Regulatory Area during 1995, some vessels registered in Honduras, Belize, Sierra Leone and New Zealand fished on the Flemish Cap. Catches by non-contracting party vessels in 1995 were estimated at 10,959 tons, comprising 7,700t 3M redfish, 2,250t 3M cod and 1,000t 3M American plaice. Currently there is only one non-contracting party vessel fishing in the NAFO Regulatory Area, the Honduran-registered Danica.

"At the annual meeting in September 1995, the Standing Committee decided to meet in May 1996 for an in-depth discussion of the non-contracting parties issue and, in particular, the consequences of the failure to cooperate in the conservation of the fish stocks concerned, in the light of the new United Nations Agreement on straddling fish stocks and highly migratory fish stocks and the FAO Code of Conduct for Responsible Fisheries.

"7. Effective conservation through enhanced cooperation

"In 1995, the European Union (EU) lodged an objection to a NAFO decision on the distribution of Greenland halibut quotas. A dispute arose between Canada and EU over the sharing of Greenland halibut. In order to resolve this dispute, Canada and the Union reached an agreement on 20 April 1995 which provided a new sharing arrangement for Greenland halibut and applied new stringent control and enforcement measures on all

EU and Canadian vessels fishing in the NAFO Regulatory Area. NAFO subsequently adopted these conservation and control measures in September 1995 and they took effect for all NAFO members from 1 January 1996. They include the obligation to implement during the period from 1 January 1996 to 31 December 1997 a pilot project for observers and satellite tracking and for this purpose to place independent, full-time observers on board NAFO-member vessels at all times, and in cases of infractions, quick reporting and follow-up. This is the toughest set of control and enforcement measures of any fisheries management organization in the world. There is also an undertaking to deploy satellite tracking devices on 35 per cent of the NAFO-member vessels beginning in 1996.

"The new United Nations Agreement on straddling fish stocks and highly migratory fish stocks will have implications for NAFO and other regional fisheries management organizations. NAFO will begin to consider these implications at its 1996 annual meeting."

30. In its submission to the Secretary-General dated 24 June 1996, the Asia-Pacific Fishery Commission (APFIC) reported that 12 countries in the region had signed the 1995 Agreement. APFIC also reported that it would further discuss the implications of the Agreement at its forthcoming twenty-fifth session, to be held at Seoul from 15 to 24 October 1996. Many countries, e.g. Thailand, planned to conduct national workshops to discuss the implications of the implementation of the Agreement. The Commission also indicated that preliminary work on transboundary fish stocks in the South China Sea had been initiated by FAO and the South-east Asian Fisheries Development Centre (SEAFDEC) and a regional workshop was to be held in Malaysia in late 1996 to discuss shared stocks issues in the region. A regional proposal for fisheries management had also been formulated by FAO and had been submitted to countries of the Association of South-East Asian Nations (ASEAN) for comments and endorsement to donors in order to strengthen regional management capacity.

31. In its reply of 22 July 1996 to the Secretary-General, the North Atlantic Salmon Conservation Organization (NASCO) welcomed the adoption by consensus and the opening for signature of the 1995 Agreement and indicated that, although it did not apply to salmon, the Agreement nevertheless contained provisions that could contribute to the international conservation and management of North Atlantic salmon.

## IV. INFORMATION PROVIDED BY NON-GOVERNMENTAL ORGANIZATIONS

32. In a resolution adopted without a vote on 19 April 1996, the 95th Conference of the Inter-Parliamentary Union (Istanbul, 12-20 April 1996) urged States to sign and ratify the 1995 Agreement and emphasized in particular its importance "as a practical and enforceable means to end high-seas overfishing". 11/

33. In its response to the Secretary-General dated 28 June 1996, the Federation of Japan Tuna Fisheries Cooperative Associations stated that the 1995 Agreement had marked a great step towards the ultimate goal of the United Nations of achieving the lasting prosperity of mankind, and therefore it supported its

basic ideas and principles. The Federation was certain that the Agreement would not only benefit the world community through the establishment of a global legal framework but would also contribute to the creation of greater job opportunities in the industrial sectors of the world.

34. The Federation, however, expressed some concerns with regard to General Assembly resolution 50/24 and the 1995 Agreement, as follows:

> "1. The Agreement should be applied in a manner which would not hinder the sound development of commercial fishing industries, upon which are bestowed the indispensable role of supplying food to the peoples of the world. Such a viewpoint should have been incorporated into the resolution;
>
> "2. The Agreement establishes the mechanism for the peaceful settlement of disputes concerning the interpretation or application of its provisions. We would like to welcome such a move. However, what is most important of all is that this mechanism should work effectively. Accordingly, we feel that the resolution should have reminded all the parties concerned of the importance of the mechanism and called for a cooperative attitude toward this framework;"

35. The Federation further indicated that, in spite of those concerns, it was convinced that the United Nations, when appropriate, would "reorient its course of action through a democratic process of debate among related nations".

36. In its reply of 5 July 1996 to the Secretary-General, the World Wide Fund for Nature (WWF) welcomed the adoption of the 1995 Agreement and attached extreme importance to the review of the Agreement by the General Assembly. WWF believed that the Assembly should focus on building common ground for achieving effective implementation of the Agreement, but it should also include a frank assessment of any shortcomings in the progress towards full implementation of the Agreement. The state of the world's fish stocks demanded such an assessment.

37. Two paramount concerns of the Fund which the General Assembly should address as priorities at its fifty-first session were adherence to the Agreement and a mechanism to ensure its implementation by regional fisheries organizations and arrangements. At the time of writing, several of the States which had participated in the negotiations on the Agreement had failed to signal clearly their intention to ratify it; this was a matter of great concern. The text of the Agreement had been adopted by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks after long negotiations in which all States had been provided with the opportunity to present their views. WWF proposes that when the General Assembly considers the Agreement, it should have before it an up-to-date list of signatures and ratifications, including a list which would identify States which had participated in the Conference but which had not made clear their intention to become bound by the Agreement. Those States might then wish to take the opportunity to clarify their respective situations, after which the Assembly should take appropriate action. What those courses of action might be could be considered closer to the time, but if the situation had not improved by then, the grave nature of the threats to the world's fish stocks would require action by the General Assembly.

38. Another area of great concern for WWF was the lack of a mechanism or mechanisms for ensuring that regional fisheries organizations and arrangements implemented the Agreement. The primary responsibility lay with States which were parties to the Agreement and participated in regional fisheries organizations and arrangements; they were the ones who must ensure that the required coordination took place at the national level. This also applied to other treaties, such as the Convention on Biological Diversity, the provisions of which were relevant to the conservation and management of fish stocks. While coordination at the national level was of critical importance, other modalities might need to be put in place to ensure implementation of the Agreement. The experience of WWF at the regional level since the adoption of the 1995 Agreement revealed an enormous lack of information concerning the Agreement, let alone understanding of its implications for regional fisheries organizations and arrangements. States which had participated in the Conference seemed to have made little or no effort to convey the results of the Conference to regional organizations or arrangements in which they participated. Full and rapid implementation of the Agreement at the regional level was a key criterion for the success of the Agreement and WWF believed that the General Assembly ought to consider how to remedy the situation. The actions of Governments did not inspire confidence. WWF participated in the annual meetings of several regional fisheries management bodies, which provided some examples. In WWF's experience, there seemed to be an unwillingness to move towards implementation of the Agreement. CCAMLR had indicated that the Agreement did not apply to it. In November 1995, ICCAT rejected as "premature" a proposal that would have directed a working group to develop a series of recommendations and prepare a report regarding the implementation of relevant provisions of the Agreement; this was a remarkable and discouraging decision. The Convention for the Conservation of Southern Bluefin Tuna had had such great difficulty agreeing on catch quotas for the severely depleted southern bluefin tuna that it raised serious questions about its ability even to begin to implement the 1995 Agreement.

39. WWF further indicated that the incorporation of the precautionary approach in the 1995 Agreement was one of its key features, stressing that it would become increasingly important as new threats to fisheries conservation and management emerged. Such threats included the impacts of climate change on marine ecosystems and growing evidence that certain chemicals, so-called "endocrine disruptors", were having far-reaching effects on species and ecosystems, both terrestrial and marine. Some of these synthetic chemicals, which mimicked human and animal hormones, had been shown to be present in fish, raising questions about the health of the stocks and about human consumption of fish from such stocks. The Agreement did not deal in any detail with questions such as excess fleet capacity or subsidies, but WWF believed these were priority issues. In particular, the Fund believed it was important to move beyond the oversimplified debate centred around "too many boats chasing too few fish" to the consideration of the structure of fleet overcapacity and the driving forces behind it. The situation of developing countries ought to be taken into account in any discussion about excess fleet capacity and related issues, as required by the Agreement. WWF recognized that current methods for controlling the world's overcapacity problem had failed to ensure the long-term sustainability of world fisheries. There was a need to create economic incentives which would drive the fishing industry towards this goal. WWF was currently working with industry partners to establish the Marine Stewardship Council, an independent, non-profit

organization which would establish a set of broad principles for sustainable fishing and set standards for individual fisheries. Fisheries meeting those standards would be marked with an on-pack logo, thus allowing consumers to select products which they are certain come from well-managed, sustainable sources. The standards and principles would build on those of the 1995 Agreement and the FAO Code of Conduct.

Notes

1/ General Assembly resolution 50/24, paras. 1 and 3.

2/ Ibid., paras. 4 and 5.

3/ Agreement to Reduce Dolphin Mortality in the Eastern Tropical Pacific Tuna Fishery, done at La Jolla, California, on 23 April 1992.

4/ Subsequently, on 27 June 1996, the European Community, together with several of its members, including Finland, signed the Agreement.

5/ Subsequently, on 20 August 1996, the United States deposited its instrument of ratification with the Secretary-General.

6/ Report of the Thirteenth Session of the Fishery Committee for the Eastern Central Atlantic, Dakar, 18-20 December 1995, FAO Fisheries Report No. 534 (FIPL/R534 (bi)), para. 50.

7/ Proceedings of the Fourteenth Regular Meeting of ICCAT, Madrid, 10-17 November 1996, item 10 (United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks and the FAO Code of Conduct for Responsible Fishing), para. 10.1.

8/ Ibid., para. 10.7.

9/ Ibid., paras. 10.9, 10.10, 10.13, 10.15, 10.16 and 10.22.

10/ Ibid., para. 10.25

11/ For the text of the resolution see A/51/210, annex, p. 37.

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